

Present were: McDonough (Acting Chair); Brown (Acting Clerk); Batchelder (Member); Baime and Boness (Associate Members).

The meeting opened at 7:02 p.m.

Petition No.: 3907

Premises affected: 72 Salem Street

Petitioner: Tiwari

Mark Yanowitz, architectural designer, represented the petitioner's request for a variance from section 4.1.2 to expand & connect an existing nonconforming garage to the existing house such that the resulting structure will not meet the minimum side yard setback requirements. The addition will be a single story family & mudroom. The existing side setback on the garage of 3.07' is nonconforming. Attaching it to the house would increase the nonconforming setback. The rest of the proposed work would conform. Yanowitz explained to the Board the interior design & reasoning to increase convenience and safety of access from the garage to the house, including a change in grade from the rear to the front of the lot. The driveway is level however. The 4' extension onto the garage is to compensate for the loss of space inside the garage with the interior stairs. The house & garage were built in approximately 1929. Margaret & Richard Focke, direct abutters at 1 Robandy Rd, asked if the existing garage will be removed entirely & whether the addition/alterations will be brick. The existing trees along the common lot line will remain. Geoff O'Donoghue, 69 Salem St, asked for the height of the extension. He examined the plans & was satisfied. The existing covered porch & mudroom will be demolished & as much of the bricks & foundation will be reused when possible. The proposed porch atop the addition will be aesthetic rather than functional. The abutters voiced no opposition to the proposal. The Board waived a site view. Brown made a motion to close the public hearing. Baime seconded the motion & the Board voted (5-0) to close the public hearing. The Board then proceeded to deliberate. Boness noted that there would be no increase to the existing non-conformity. Brown added that the shape of the lot presents a hardship & that the house and garage were constructed prior to the adoption of zoning. Batchelder disagreed reminding the Board that similar previous cases were denied due to the proximity of the garage to the lot line. Brown pointed out that connecting the house to the garage does increase the non-conformity and would have to meet special permit criteria. Baime feels it's a modest proposal in harmony with the neighborhood and that no abutters are opposed. McDonough felt that the garage is already very close to the lot line without the connection or extension. The Board discussed alternatives for safe access without increasing the non-conformity. Brown made a motion to grant a variance to connect the garage finding that hardship exists due to the shape of the lot. There was no second to the motion. Batchelder made a motion in favor of denying the variance based on the fact that the proposed extension & connection of the non-conforming garage to the house is too great. Baime seconded the motion and the Board voted (4-1) (Brown opposed) in favor of denying the variance. Batchelder will write the decision.

Petition No.: 3905

Premises affected: 221 Highland Road

Petitioner: Schimmel

Leyla Schimmel, 21 Candlewood Rd., represented herself & her husband in their request for a variance &/or a special permit to construct a second story addition on the existing house, built in 1954. The existing side setback is 14', while 15' is required. The front setback is also non-conforming, but there will be no addition to the second story at the front. The second floor addition will not increase the non-conformity. The resulting house will be less than 35' high. Ms. Schimmel has spoken with the neighbors, none of whom expressed opposition. The Board questioned the elevations, particularly at the rear of the house, where it appears to have three stories. Schimmel explained that it is 2 ½ stories including the attic. Brown asked if the new garage is under the rear portion of the house. It is, thus addition to the large-scale appearance. The existing house has approximately 1200 gross sq. ft. with a 35'x25' addition. The Board waived a site view. Baime made a motion to close the public hearing. Batchelder seconded the motion and the Board voted (5-0) to close the hearing. The Board then proceeded to

deliberate. Brown stated it could have been done by special permit, except that previous zoning approvals (a variance) do not extend as pre-existing non-conforming status for a special permit & therefore can only be extended by modification of the variance. Baime noted the hardship as the shape of the lot and that the proposal is in keeping with the neighborhood. Brown argued that it increases the mass of the house within the setback. Batchelder noted that the addition would be a vertical extension of the non-conformity & within the existing footprint. She feels hardship exists. Boness argued that the 2.1-acre lot is not a hardship related to shape. Brown explained that if they were to raze the existing and build at the back of the lot, all prior relief is void and would be in a similar situation because the lot shape is irregular & lacks frontage. Brown made a motion to find that hardship exists related to the shape of the lot & that the proposed additions will not derogate from the intent or purpose of the zoning by law, to grant a variance from §4.1.2 and deny the special permit from §3.3.5 as moot. Baime seconded the motion & the Board voted (4-1) (Boness opposed) to grant the variance. Brown will write the decision.

Petition No.: 3904

Premises affected: 311 Lowell Street

Petitioner: Cingular

Attorney Michael Dolan represented the petitioner's request for a special permit under §6.1.1 &/or §3.1.3.F.15 to collocate 9 antennas on an existing tower & to expand the equipment area to accommodate an equipment shelter. The property is located on Map 151, Lot 14A in the Limited Service District. Also present was Ms. Gin Vilante, for Cingular.

The Board discussed alternative locations for providing service (this is the only tower in the area, no alternatives exist), the radius of the tower/search ring (@ 50' height, the search ring is smaller – ½ mile - for the proposed antennas), focus on in-building coverage (there are alternative means to provide in-building coverage – i.e. roof top amplifiers), coverage gaps (a tower every mile would be required for such antennas @ 50'), whether the cables are internal to the tower (yes), no cable ports are shown on the plans @ 50' height (would require structural modifications to the monopole, plans call out exit ports to be cut for internal cables), stockade fence (to enclose & replace the existing chain link fence limited to Cingular's equipment shelter rather than future carriers as tower owner requested), and why the equipment shelter is stick built (due to limited space in the compound).

Dolan agreed to a condition of approval to revise the plans to accurately depict the 18 new 1-5/8" exit ports. Brown made a motion to waive the site view and close the public hearing. Batchelder seconded the motion & the Board voted (5-0) to waive the view & close the hearing. The Board then proceeded to deliberate. Boness made a motion to approve the special permit under §6.1.1 & 3.1.3 with conditions. Batchelder seconded the motion. Boness outlined the issues with the site: the original site required a tree buffer around the compound & that the antennas are painted with non-reflective matching paint, neither of which has been done. The Board felt this should be brought to the attention of the Inspector of Buildings for enforcement. Boness suggested the condition that a Certificate of Occupancy not be issued until the conditions are met (antennas need to be painted to match with non-reflective paint, cables must be interior to the monopole, a grade elevation of the shelter be that of the existing grade, & that the stockade fence be erected. The Board voted (5-0) to approve the special permit with conditions. Boness will write the decision.

Petition No.: 3903

Premises affected: 119 Chestnut Street

Petitioner: Clements

Greg Clements represented himself & his wife in their request for a variance from §4.1.2 &/or a special permit under §3.3.5 to convert an existing 1-story open porch to a mudroom. The existing dwelling is located on a corner lot at the intersection of Chestnut & Morton Streets. The front setback on Morton Street is non-conforming. The proposal is to keep the roof, floor & stairs of the existing porch and add walls. The front setback is approximately 15' where 35' minimum is required. Petitioners have spoken with the neighbors and no one voiced opposition. The house was built in 1908. Brown made a motion to waive a

site view and close the public hearing. Batchelder seconded the motion & the Board voted (5-0) to waive the view & close the hearing. The Board then proceeded to deliberate. Brown made a motion to find that the structure is lawfully pre-existing non-conforming and that the enclosure of the existing open porch constitutes an extension of the existing non-conformity, but no new non-conformity will be created and is not detrimental, to deny the requested variance as moot and to grant a special permit with the condition that the work be completed in conformance with the plans. Boness seconded the motion & the Board voted (5-0) to grant the special permit with conditions and deny the variance as moot. Baime will write the decision.

Petition No.: 3906

Premises affected: 6 Black Horse Lane

Petitioner: Robichaud

No one was present regarding the petition. Brown made a motion to continue case #3906 without opening the public hearing to the December 2, 2010 regular meeting. Baime seconded the motion & the Board voted (5-0) to continue the case to 12/2/10. The secretary will contact the applicant to inform them.

Batchelder made a motion to approve the minutes of 10/7/10. Brown seconded the motion & the aboard voted 95-0) to approve the minutes of 10/7/10.

There was a motion to adjourn & a second. The Board voted (5-0) to adjourn the meeting at 8:45 p.m.